

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION**

THE STATE OF MISSISSIPPI, EX REL.  
JIM HOOD, ATTORNEY GENERAL  
FOR THE STATE OF MISSISSIPPI,

Plaintiff-Counterclaim Defendant,

v.

No. 3:08-CV-780-HTW-LRA

ENTERGY MISSISSIPPI, INC., ENTERGY  
CORPORATION, ENTERGY SERVICES,  
INC., AND ENTERGY POWER, INC.,

Defendants-Counterclaim Plaintiffs

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**PLAINTIFF’S MEMORANDUM BRIEF IN SUPPORT OF  
ITS MOTION FOR EXTENSION OF TIME TO FILE RESPONSE TO DEFENDANTS’  
MOTION FOR SUMMARY JUDGMENT BASED ON STATE OR FEDERAL  
PREEMPTION AND DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT AS A  
MATTER OF STATE LAW**

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MAY IT PLEASE THE COURT:

Plaintiff, Attorney General Jim Hood, by and through undersigned counsel and on behalf of the State of Mississippi, hereby submits this memorandum brief in support of its motion for an Order, pursuant to Fed. R. Civ. P. 6(b) and in accordance with Local Rule 7(b)(4), granting a 30-day extension of time to file responses to Defendants’ Motions for Summary Judgment.

On June 4, 2018, Defendants filed their Motion for Summary Judgment Based on State or Federal Preemption (Doc. 262), appended with approximately 500 pages of exhibits and supported by a 55-page memorandum citing to 51 decisions from state and federal courts (Doc. 263). Under

Local Rule 7(b)(4), Plaintiff must file a response to Defendants' first Motion for Summary Judgment on or before June 18, 2018.

On June 8, 2018, Defendants filed their Motion for Summary Judgment as a Matter of State Law (Doc. 266), appended with approximately 300 pages of exhibits, and supported by a 15-page memorandum citing 53 decisions from state and federal courts (Doc. 267). Under Local Rule 7(b)(4), Plaintiff must file a response to Defendants' second Motion for Summary Judgment on or before June 22, 2018.

Fed. R. Civ. P. 6(b) provides that the deadline for filing a response may be extended by the court, either *sua sponte* or upon motion of a party, for good cause shown. Given that the deadline within which Plaintiff must respond to Defendants' first Motion for Summary Judgment (Doc. 262) is June 18, 2018, this request for an extension is timely.

Plaintiff submits that an extension of time to file a response to both motions is warranted by the sheer volume of Defendants' filings. Even dedicating all available resources, Plaintiff would be unable to fully and adequately respond in a timely fashion under the prescribed deadlines. Furthermore, the lengthy memorandum accompanying Defendants' Motion for Summary Judgment Based on State or Federal Preemption is dedicated in part to novel arguments regarding whether S.B. 2295 applies to this case, which the court has not previously considered, and which require substantial research and analysis.

Plaintiff also anticipates that it will be required to prepare and/or obtain affidavits from individuals to support its oppositions to the Motions for Summary Judgment and asserts that additional time is needed to obtain such affidavits.

Defendants have apparently been preparing these motions for months, if not longer, and, although it is the codified deadline, in this instance it would be prejudicial to Plaintiff to be required

to respond to dispositive motions seeking to dismiss the entirety of a \$1 billion case alleging numerous, complex and important consumer protection and antitrust claims within 14 days. Further, while discovery is ostensibly complete, to review and assemble supporting evidence out of the roughly 1,000,000 documents and spreadsheets produced to date to respond to the Motions for Summary Judgment requires considerably more than 14 days.

As mentioned in the motion, undersigned counsel contacted Defendants' counsel and requested their non-opposition to the 30-day extension from June 18, 2018, which would put the deadline for responses to both Motions for Summary Judgment on July 18, 2018. Defendants' counsel responded that Defendants could agree to a 14-day extension on the response to each motion (putting the due dates at July 2, 2018 and July 6, 2018, respectively), but would not agree to the 30-day extension sought by Plaintiff. Plaintiff attached the email exchange between undersigned counsel and Defendants' counsel to the Motion for Extension of Time, as Exhibit "A".

Plaintiff also notes that, while it seeks an extension of time to address the voluminous supporting briefs and exhibits, it does not expect the granting of this motion to, and does *not* wish to, jeopardize the trial date, as mentioned in its email exchange with Defendants' counsel.

WHEREFORE, based on the above and foregoing reasons, Plaintiff, Attorney General Jim Hood, respectfully submits that there is good cause for a brief extension of time within which to respond to Defendants voluminous Motions for Summary Judgment and requests this court to grant it an extension of 30 days from the deadline for Plaintiff's response to Defendant's Motion for Summary Judgment Based on State or Federal Preemption, through and including July 18, 2018, to file responsive pleadings to both Motions for Summary Judgment (Docs. 262 and 263).

**By: JIM HOOD, ATTORNEY GENERAL  
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### **CERTIFICATE OF SERVICE**

I, Luke F. Piontek, Attorney for the State of Mississippi, do hereby certify that on June 12, 2018, I caused to be electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

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This the 12<sup>th</sup> day of June, 2018.

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